

§ 156.140

AV as described in paragraph (a) of this section.

(g) *Updates to the AV Calculator.* HHS will update the AV Calculator as follows, HHS will:

(1) Update the annual limit on cost sharing and related functions based on a projected estimate to enable the AV Calculator to comply with § 156.130(a)(2);

(2) Update the continuance tables to reflect more current enrollment data when HHS has determined that the enrolled population has materially changed;

(3) Update the algorithms when HHS has determined the need to adapt the AV Calculator for use by additional plan designs or to allow the AV Calculator to accommodate potential new types of plan designs, where such adaptations can be based on actuarially sound principles and will not have a substantial effect on the AV calculations performed by the then current AV Calculator;

(4) Update the continuance tables to reflect more current claims data no more than every 3 and no less than every 5 years and to annually trend the claims data when the trending factor is more than 5 percent different, calculated on a cumulative basis; and

(5) Update the AV Calculator user interface when a change would be useful to a broad group of users of the AV Calculator, would not affect the function of the AV Calculator, and would be technically feasible.

[78 FR 12866, Feb. 25, 2013, as amended at 79 FR 13839, Mar. 11, 2014]

§ 156.140 Levels of coverage.

(a) *General requirement for levels of coverage.* AV, calculated as described in § 156.135 of this subpart, and within a de minimis variation as defined in paragraph (c) of this section, determines whether a health plan offers a bronze, silver, gold, or platinum level of coverage.

(b) *The levels of coverage are:*

(1) *A bronze health plan* is a health plan that has an AV of 60 percent.

(2) *A silver health plan* is a health plan that has an AV of 70 percent.

(3) *A gold health plan* is a health plan that has an AV of 80 percent.

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(4) *A platinum health plan* is a health plan that has as an AV of 90 percent.

(c) *De minimis variation.* The allowable variation in the AV of a health plan that does not result in a material difference in the true dollar value of the health plan is ± 2 percentage points.

§ 156.145 Determination of minimum value.

(a) *Acceptable methods for determining MV.* An employer-sponsored plan provides minimum value (MV) if the percentage of the total allowed costs of benefits provided under the plan is no less than 60 percent. An employer-sponsored plan may use one of the following methods to determine whether the percentage of the total allowed costs of benefits provided under the plan is not less than 60 percent.

(1) The MV Calculator to be made available by HHS and the Internal Revenue Service. The result derived from the calculator may be modified under the rules in paragraph (b) of this section.

(2) Any safe harbor established by HHS and the Internal Revenue Service.

(3) A group health plan may seek certification by an actuary to determine MV if the plan contains non-standard features that are not suitable for either of the methods described in paragraphs (a)(1) or (2) of this section. The determination of MV must be made by a member of the American Academy of Actuaries, based on an analysis performed in accordance with generally accepted actuarial principles and methodologies.

(4) Any plan in the small group market that meets any of the levels of coverage, as described in § 156.140 of this subpart, satisfies minimum value.

(b) *Benefits that may be counted towards the determination of MV.* (1) In the event that a group health plan uses the MV Calculator and offers an EHB outside of the parameters of the MV Calculator, the plan may seek an actuary, who is a member of the American Academy of Actuaries, to determine the value of that benefit and adjust the result derived from the MV Calculator to reflect that value.

(2) For the purposes of applying the options described in paragraph (a) of this section in determining MV, a